



BOARD OF ADJUSTMENT

MEETING AGENDA

Thursday, April 22, 2021

4:30 p.m.

Join Zoom Meeting

<https://us02web.zoom.us/j/84779184660>

Meeting ID: 847 7918 4660

One tap mobile

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- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. Minutes: Approval of the March 18, 2021 meeting minutes.

2. BOA2021-04: Consideration and action on a request for a 10' variance to the front yard setback to facilitate the construction of a single-family residence at 6706 E 6675 N, Eden.

Staff Presenter: Felix Lleverino; **Applicant:** Greg D'Alessandro and Lisa B. D'Alessandro,

3. Rules of Order: Approval of Rules of Order

Adjournment

*The Board of Adjustments meeting will be held in person in the Commission Chamber, in the Weber Center, 1st Floor,
2380 Washington Blvd., Ogden, Utah.*

&

Via Zoom Video Conferencing at the link listed above.

***In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the
Weber County Planning Commission at 801-399-8791***

Minutes of the Board of Adjustments meeting of March 18, 2021, held in the Weber County Breakout Room, 2380 Washington Blvd. Floor 1 Ogden UT at 5:00 pm & via Zoom Video Conferencing.

Members Present: Jannette Borklund – Chair
Kevyn Grimes – Vice Chair
Nathan Buttars
Rex Mumford

Members Excused: Bryce Froerer
Neal Barker
Laura Warburton

Staff Present: Rick Grover, Planning Director; Steve Burton, Principle Planner; Scott Perkes, Planner III; Brandan Quinney, Legal Counsel; Marta Borchert, Secretary.

- Pledge of Allegiance
- Roll Call

1. Minutes: Approval of February 11, 2021. Minutes approved as presented.

2. BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West).

Scott Perkes states that this is a request for a 20 ft. variance front yard setback to facilitate the construction of a single-family residence. The project area is .22 acres in the FR-3 zone. It is currently a vacant lot and the developer is looking to develop it with a single-family residence. A 20 ft. variance is being requested to a front yard setback in the FR-3 zone which typically requires 25 ft. setback variance. This would leave a 5 ft. setback to the front property line. The applicant feels that this variance is necessary to build the desired home. The applicant sites various peculiar circumstances that concern the lot's buildable area. They are contained in Exhibit A which is the applicant's narrative. They include the site topography, slope, size, and the unique easement that traverses the rear that encumbers a third of the property. The buildable area has been reduced to a little over 3000 sq. ft. due to some of the various encumbrances. The 20 ft. variance would increase the buildable area to 4250 sq. ft. this is a restricted lot, it is lot 42 R. the slopes are over 25 percent. There are already unique geologic constraints. There is a ski easement running through the backyard that is unique to this property. Looking at this particular subdivision the Depiano's lot has a disproportionate share of the easement. This easement continues to run east and west along the rear of the property. This is the biggest constraint in addition to the topography that is requiring that a variance be considered. Powder Mountain West is a steep area the roads are narrow and they are not currently plowed in the winter. This does not mean that they won't be plowed in the future should the HOA decide to fund that effort. Concerning the building, there is quite a bit of cut and fill that is required. This is partially why they would like to push it forward, to accommodate the garage that sticks out a little bit further than the rest of the home. The majority of the facade is pushed further back. They just have the garage that is coming forward to facilitate the access of the car and the vehicular access.

Kevyn Grimes asks if there are other houses like that in the area. He read that some are close to 5 ft. of it as well in that subdivision. Mr. Perkes states that they did not do a deep dive review of the surrounding houses to see if they had received a variance as well. They don't usually look at that, it is looked at at a site specifically. One thing that they do look at is if there is a unique hardship on the lot that other lots don't have that would prevent the owner from a property right that others in the area can enjoy. In this instance everybody along Aspen Drive does not have as much of an encumbrance along Aspen Dr. this is also compounded by the existing ski trail, because it was built outside of the easement.

Nathan Buttars asks how far from the Aspen Dr. is the house. Mr. Perkes states that it would be probably about 20 ft from the asphalt. Mr. Buttars asks if there are any safety concerns with it being this close to the road. Mr. Perkes states that there could be.

Right now they are not plowing the road in the wintertime. It is only accessible by a snowmobile. In the future when more lots and more people are contributing to the HOA funds. Concerning the 20 ft. separation the liability would be on the owner. There are no sidewalks curb and gutter or anything in the area. There is just vehicular traffic in the summertime.

Chair Borklund asks if the road is gravel. Mr. Perkes states that the drawing indicates that it is gravel, and staff went on a site visit but the road was covered 3ft of snow it was hard to tell.

James Depiano, states they will be 20 to 25 ft. off of the road. With the ski trail, there is some concern about the snow coming down from that back. He adds that they will be cramped, and the garage protrudes out, but they did not have much of an option. Chair Borklund asks if there is a reason that the garage is not square to the road. If it was straightened out the garage would not be poking out quite so far. Mr. Depiano states that it is because of the slope and the way the rest of the neighborhood is facing. It might look odd to the neighbors. Mr. Perkes states that the home is lined to go with the contour lines.

Chair Borklund asks if this will be a summer home or a year-round home. Mr. Depiano states that it will be winter and to be determined.

Chair Borklund states that the 20 ft. variance seems like a lot. She agrees that there is a hardship.

Mr. Buttars states that he does not feel that they can take into account the size of the lot as a hardship, but the easement on one side and the slope are creating special circumstances.

MOTION: Nathan Buttars moves to approve BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West). Based on the findings that there are special circumstances on this lot that include the easement and the slope and that the special circumstances are causing the hardship and that it meets the following criteria a. The applicant's narrative states that literal enforcement of the setbacks substantially reduces the buildable area and makes it unreasonable to build a home similar to other homes in the Powder Mountain/Summit area. b. The applicant states that the special circumstances that exist are the size of the lot, the slope of the lot (see Exhibit B), and the encroachment of Slow Poke Trail along with the rear third of the property. All of which restricts the buildable footprint. c. The applicant's narrative indicates that granting a variance is needed to enjoy a substantial property right that is possessed by other properties in the area. d. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that variance to the setback will not adversely affect the neighbors and will not crowd the existing Aspen Road. e. The applicant has taken the appropriate measures to submit for a variance request and is looking to preserve the existing ski easement along the rear of their property while still requesting that substantial justice be considered by allowing their home to be built closer to the front property line. Kevyn Grimes seconds.

It is not clear if there was a unanimous vote.

Mr. Quinney states that since it was unclear what the vote was, it would be good to revisit the motion and clarify the roll call of the vote.

Rex Mumford states that he was trying to oppose and there was an issue with the audio. He states that he was waiting for the Chair to call for a motion and discussion. There was no call for discussion. Director Grover states that they can go back to that if they would like.

Chair Borklund states that they can call for a motion to reconsider. Mr. Mumford states that it was his understanding based on the Roberts Rules of Order that after the Motion and second there should have been an opportunity for discussion. Mr. Quinney states that because it was unclear if there was a unanimous vote it is appropriate to make a motion to reconsider.

MOTION: Kevyn Grimes moves to reconsider the first motion on BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West). Rex Mumford second. Motion carries (4-0)

Rex Mumford states that his concern is much like Chair Borklund's concern. This is an 80 percent variance and it seems excessive. While he agrees that there is an easement zone that poses a hardship and some topography issues, he feels that when someone buys a lot that is .23 of an acre those restrictions were on it when they bought it. There are certain things to accept when someone buys a lot. It should not be contingent on getting an 80 percent removal of a variance or a setback. He states that he feels that this easement is taking away some of the options for the neighborhood.

Mr. Perkes read an email which is public comment, it states: Dear Mr. Perkes, Thank you for sending the staff report on the above project to my wife Wendy Sauter. In general, I think the owner should be allowed to build a reasonable house on the property, and granting some variances is appropriate. With that in mind, I must say the owners should have been aware of the easement and in general the set-back requirements on the property when they purchased it. I feel an 80% variance to the front setback is too much. I agree the existing street is a distance from the property line, however, this eventually may be used for a sidewalk or ski path for residents. Therefore, 5' from the property line seems much too close. It appears that if the house as proposed is rotated clockwise just a few degrees and moved close to the easement, that it would fit with only a minor front yard set-back. Repositioning the most northerly portion of the house to one side or the other might give even more room. Again, I support some latitude in set-backs to allow a good house to be built. Thank you for your time. Regards, Bob Guthrie.

Mr. Mumford states that Mr. Guthrie made a good point. If the home was slightly shifted could result in less of a variance. There would be less of a need for the reduction. It sounds like one of the neighbors is okay with not having the house lined up with everyone else's.

Chair Borklund states that it could be scooted back and rotated a bit. She notes that there is an option available this is not the only way that it would work.

Kevyn Grimes states that he was on the fence and he could only see it meeting 3 of the criteria, and he feels that Mr. Mumford made a great point.

Nathan Buttars states that he is interested in hearing from the applicant.

James Depiano states that he is concerned with the steepness of the hill and going further west on the lot it gets steeper. IT makes it more difficult. He adds that they could turn it a foot or two. He asks if this will make much of a difference. He adds that they are asking for a 5 ft. setback which was allowed in other areas. These houses were built 5 ft. from the road. He states that they are asking for a 20 ft. variance but are still 20 ft. from the road. It is still a setback fairly reasonably to be plowed and have a driveway. 20 ft. would be on the west side where it would be angling up, it might be closer to 30ft. He notes that they have a smaller lot and a hardship. He states that they want to have a lower profile and to stay in line with the neighborhood. He states they can bring it in but it will bring the height up. The proposal presented would be less intrusive.

Chair Borklund states that the Board does not function on previous actions that may or may not have been approved. Applications are looked at, on a case-by-case basis. Each situation is looked at based on its merits.

Rex Mumford states that he feels it is an excessive amount. 80 percent variance leaving only 5 ft. of setback from the County ordinance.

Chair Borklund asks if there is a reason why the road is so far away from the pavement of the road. Mr. Perkes states that the road can build anywhere within the right of way. The right of way is almost always wider than the improved surface of the road. He adds that one thing that is important to note is that the letter that was read into the record indicated that there may be a sidewalk or a trail within the setback on the lot and that's not the case. Any trails or sidewalks will be contained within the right of way and not within the 5ft setback. The road could be expanded closer to the home or it could be kept in its current location and the right of way can be widened for those types of improvements, there can be trails or sidewalks. It would all be contained in the right of way and not on the property. Rex Mumford states that this is his concern the request is for 20 ft which would put the house 5 ft from the property line. They cannot know what happens in the future or what the plans are for that area. They could within the right of the way move the road. If they paved it could put a sidewalk, a biking path. They could in effect put a biking path within 5 ft. there is a

lot of uncertainty this road is not in yet it is not finished. If this variance is granted any plans for this easement could be placing the structure very close to those plans.

Chair Borklund asks Aspen Dr. is a private road. Does this make a difference? Mr. Perkes states that it is not County standard. Chair Borklund asks if it is not dedicated to the county as a public road. Mr. Depiano states that it is not. Mr. Mumford notes that it could be dedicated. Chair Borklund asks how it is taken care of. Mr. Depiano states that it is maintained by the HOA.

Chair Borklund states that it might be good to table the action and have the applicant come back with some other suggestions.

Kevyn Grimes asks if they need to withdraw their previous motion. Director Grover states that they would need to go back and withdraw that. Mr. Quinney states that they already placed a motion to reconsider which by itself to withdraw the original motion and reconsider. The Chair can entertain additional motions for the variance or additional motions considerations to vote and all present Board members may vote on any additional motions for consideration.

MOTION: Rex Mumford moves to deny BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West). thus allowing the applicant to come back with a counter request. Chair Borklund seconds.

Kevyn Grimes asks if they want to deny the request or table it to allow the applicant to come back. Director Grover states that if it is denied the applicant would have to apply again and reapply.

Nathan Buttars states that it would be fair to table the request and allow the applicant to come back with a counter request.

Rex Mumford states he agrees with Mr. Buttars.

MOTION: Rex Mumford moves to withdraw the motion to deny and moves to table item BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West) and allow the applicant to come back with a modified request. Kevyn Grimes seconds. Motion carries (4-0).

3. BOA2021-03: Consideration and action on a request for a 5-foot variance to the front yard setback and a 10-foot variance to the rear yard setback to facilitate the construction of a single-family.

Steve Burton states this is a request for a 5 ft. variance to the front yard setback, it would normally be 25 ft they are asking that it be 20 ft. They are asking for a 10 ft. variance to the rear yard setback, which would normally be a 30 ft. The proposed house is a 1050 sq. ft. house, it would be 3 levels. The applicant has cited a few things relative to the variance criteria. Regarding variance criteria A., the applicant has cited that the shape and the lot size are special circumstances. Literal enforcement of the setbacks creates a small triangular buildable footprint that would make it difficult to achieve coherent aesthetics and home sight standards of other dwellings in the area. Regarding the second variance criteria, the applicant has stated that the special circumstance is the size and shape of the lot. The applicant stated that regarding the substantial property right they are explaining that the granting of this variance is needed for the person to be able to enjoy the right of a single-family home. Concerning the general plan, the applicant feels that approving the variance is not contrary to the goals and objectives of the general plan. Concerning the last criteria concerning substantial justice, they are exhausting all of their remedies under the land-use code. They feel that the spirit of the law is being met here and that substantial justice they are exhausting all of their remedies under the land-use code, they feel that the spirit of the law is being met here and that substantial justice is being done. The proposed access is of Chaparral Dr.

Chair Borklund asks if there are any questions for staff.

Joeseh Draves states that it is a corner lot and the lot is turned from being parallel running east to west along Aspen Dr. He notes that he does not have enough frontage on Aspen to put a driveway there. He adds that he is trying to stay to the contours. With the

existing setbacks, he has 980 ft of the buildable triangle to build a house in. the driveway would be off of Chaparral and lead right into the garage.

Chair Borklund asks if there are any questions for the applicant.

Tim Lane states that he owns the parcel to the north of this lot. They are worried because of the blocking of their view because of the size. Bringing the house 5 ft closer to the road will block their view. He notes that the owner bought the piece of land knowing it was going to be tough to build on, he adds that he does not feel that he should be penalized.

Joesph Draves states that what made this difficult is the lots run parallel with the two roads. The back edge is where the two side edges intersect at the other point. To place a house symmetrically in this triangle if it the same easement as the rectangle it would be 8 ft in from each of those edge lines and a 30 ft radius off of the back point. He adds that he would like to center the house more and split the difference between each side. That is considered the back because of the driveway. The back of the house is pointing uphill. He adds that he has no problem changing it up and going to the 25 ft road variance that is not a big deal. Sticking with 950ft triangle and this is what the County allows and the HOA will go along with it he can make those changes and shift it to the left and not even ask for a variance off of the road. It will be difficult to build a house within the triangle and not block some of Mr. Lane's views.

Tim Lane states that looking at the drawings showed the deck outside of the variance. He states that he wants to know what the deck entails and the extent is. Mr. Draves states that concerning the southern deck he can trim it back so that it falls within the road variance. He states that he is aware if it sticks out into the variance. He adds that he will work with his architect based on what happens in this meeting.

Nathan Buttar asks what the slope is like on the parcel. The applicant did not site slope in their application as an issue. Mr. Burton states that there is a 30 ft increase heading North.

Kevyn Grimes asks Mr. Lane which setback is hurting him the most. Mr. Lane states that it is the front setback that will be blocking them.

Rex Mumford states that it sounds like the applicant is okay with reducing the variance request on the front. He asks if they are now just looking at a side variance. Mr. Burton states that they should still be considering both variances. M.r Mumford states that between the two it is still 5ft on the front and 10ft on the rear.

Mr. Draves states that if it helps get the variance request through and it makes Mr. Lane happy he has no problem with a 25 ft variance. He adds that the rear setback offers him a better opportunity to square off the house.

Rex Mumford states that they can make a motion to only approve one of the two variances. Mr. Quinney states that looking at section 102-3-4 (b)(6) it states that in granting a variance the appeal authority may impose additional requirements on the applicants that will mitigate any harmful effects or serve the purpose of the standard and requirement that is waived or modified. He notes that they should not have a problem reducing some of the variance request or only approving half of it and only leaving half of it.

MOTION: Rex Mumford moves to approve a 10 ft variance to the rear with no change to the front setback on item BOA2021-03. This is based on staff analysis and that it meets the criteria and the findings that it meets state law requirements. Kevyn Grimes Seconds. Motion carries (4-0).

4. Rules of Order: Approval of Rules of Order. Board members decide to table the approval of the Rules of order to have a better chance to review. Nathan Buttars states that it would be better the have comments from all the Board members, he did not get a chance to review it.

MOTION: Kevyn Grimes moves to table the approval of the rules of order. Nathan Buttars seconds. Motion carries (4-0).

MOTION: Kevyn Grimes moves to Adjourn. Nathan Buttar seconds. Motion Carries. (4-0)

Adjournment: 5:52pm

Respectfully submitted,

Marta Borchert

DRAFT



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 10' variance to the front yard setback to facilitate the construction of a single-family residence at 6706 E 6675 N, Eden.

Agenda Date: Thursday, April 22, 2021

Applicant: Greg D'Alessandro and Lisa B. D'Alessandro, Owners

File Number: BOA2021-04

Property Information

Approximate Address: 6798 E 6725 N (Aspen Drive)

Project Area: 9,207 Sq. ft.

Zoning: Forest Residential (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-110-0003 (Lot 34 of Powder Mtn. West Sub Phase 2)

Township, Range, Section: T8N, R1E, Section 36, SE 1/4

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Residential

Staff Information

Report Presenter: Felix Lleverino
flleverino@co.weber.ut.us
801-399-8767

Report Reviewer: SB

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)

Background

The applicant is requesting a 10-foot variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 15-foot setback from the front lot line. The applicant feels that a variance is necessary to be in uniformity with neighboring home to the west that has built at the 15-foot setback line, to avoid a long steep driveway, and to be in a good position to enjoy the view. The applicant cites special circumstances that constrain the lot's buildable area and reduces their ability to build a reasonable home that would match development within the neighborhood (see **Exhibit A**).

The applicant has provided site plans, photos, and architectural drawings to help visualize the site conditions on the property (see Exhibit A).

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. For a variance to be granted it must be shown that all of the following criteria have been met:

- Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 - In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 - In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*

- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 - 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice is done.*

Staff Analysis

The list below are points taken from the applicant's narrative as compared to the above-listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks substantially reduces the buildable area and makes it unreasonable to build a home similar to other homes in the Powder Mountain/Summit area.
- b. The applicant states that the special circumstances that exist are the ski easement that reduces the buildable area, and the reduced view as a result of a variance granted to the adjacent lot. Strict enforcement would impose a steep, unsafe, and impractical driveway.
- c. The applicant's narrative indicates that granting a variance is needed to enjoy a substantial property right that is possessed by other properties in the area.
- d. The General Plan indicates that county roads leading to remote mountainous areas should provide for safe vehicular access to mountain homes. Aspen Drive is not plowed during the winter. If the HOA adopts a plowing schedule, snow removal will be minimized with a less steep, more safe, functional driveway.
- e. The applicant has taken the appropriate measures to submit a variance request and believes that granting the variance does not harm the goals and policies of the Ogden Valley General Plan.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-3 zone. If the requested variance is granted, it will not harm the goals and policies of the Ogden Valley General Plan.

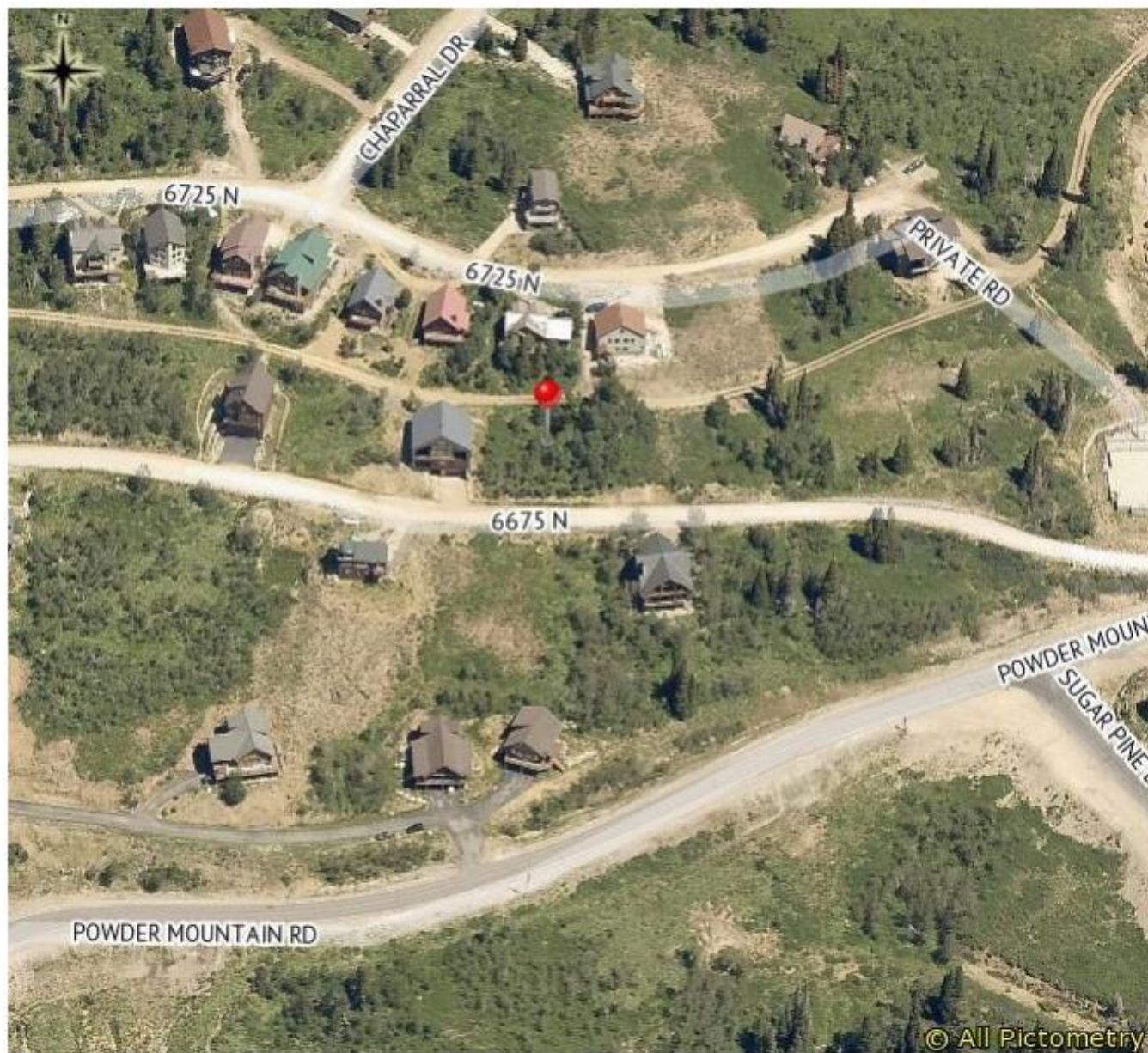
Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis and compare the applicant's request against the five points of consideration listed in LUC §102-3-4(b)(2) (presented above). If the Board finds that the applicant's request meets the criteria, a 10-foot variance to the front yard setback could be granted.

Exhibits

- A. Applicant-written variance request with exhibits
- B. 2021 Recorder's plat

Area Map



D'Alessandro – Variance Application - Lot 34 Powder Mountain West

Explain your request.

The Applicants are requesting a variance to reduce the FR-3 front yard setback requirement.

The current required setback for the FR-3 zone is 25 feet. The Applicants propose building a home approximately 15 feet to the front property line; this would require a 10-foot variance to the required setback.

A similar variance has been granted to neighboring lots:

- Lot 35 (immediately adjacent to the west) was granted a variance allowing for a 15-foot front yard setback.
- Lot 50R (immediately across the street to the south) was granted a variance allowing for a 12-foot front yard setback.
- Lot 51-R (across the street to the south) was granted a variance allowing for a 10-foot front yard setback.

Multiple other lots on 6675 North Street (Aspen Drive) have also been granted a variance for relief from the front yard setback requirements.

Granting the relief requested will allow the Applicants to reduce their driveway's steepness and construct a dwelling with a two-car garage with safe and functional access.

Granting the relief requested will also minimize the adverse impact to Applicants from the existing structure on adjoining lot 35. The Board granted Lot 35 a variance allowing a 15-foot front yard set back. Thereafter, Lot 35 constructed a large home located very close to Applicant's southeast property corner that significantly impacts the view from Applicants' lot and otherwise creates a hardship if Applicants are not granted a similar variance.

Strict enforcement of a 25-foot setback is not required to carry out the zoning plan's general intent and purpose. Granting Applicants' request will not adversely affect adjoining property owners.

The Board of Adjustment may grant a variance only if the following five criteria are met. Please explain how this variance request meets the following five criteria:

1. **Literal enforcement of the ordinance would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.**
 - a. **In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the**

property, not from conditions that are general to the neighborhood.

- b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.**

Strict enforcement of a 25-foot setback will result in a hardship to Applicants. The subject property is impacted by the following existing/special conditions which are unique to this property are not self-imposed or economic:

- Lot's Steep Slope: Elevations on the lot range from 8,277 feet in the Southeast Corner to 8,317 in the Northwest corner. Aspen Drive rises 8,277 feet to 8,285 feet along the front of the lot. The lot also rises steeply within the 25-foot setback area (8' to 9'). This will result in an unnecessarily steep driveway (grade of 34% - rising approximately 8.5 feet over a length of 25 feet) that is less safe and less functional than if a variance is granted.
- Ski Trail Easement: There is a 20-foot wide ski trail easement restricting the northern portion of the lot, thereby reducing the size of the effective building envelope.
- Variance granted to Lot 35. Lot 35 was granted a front yard set back variance allowing for a 15-foot setback. As a result, there is now a large home (one of the biggest in the neighborhood) on the adjoining lot within the standard front yard setback and less than 4' from the subject lot's western property line. This existing dwelling significantly impacts views from the Applicants' lot to the southwest. These views would not be as limited if the home on lot 35 was constructed within the standard front yard and side yard setbacks. This condition requires a similar variance to be granted to the subject lot to enjoy the same views.

2. There are special circumstances attached to the property that do not generally apply to the other properties in the same zone.

- a. In determining whether there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.**

Please describe the special circumstances attached to the property that do not generally apply to the other properties in the same zone:

The above circumstances are unique to the subject lot and are not common to all lots within the FR-3 zone. Most lots in the FR-3 zone are NOT:

- Subject to a ski trail easement, which reduces their effective building envelope.
- So steep that a safe driveway cannot be constructed.
- Negatively impacted by a variance granted to the adjoining lot and an existing structure that dramatically limits the views, and deprives the property owner of privileges granted to other properties in the same zone.

Strict enforcement of the setback will impose an undue hardship to Applicants because viable access to the property would be limited. Unless a variance is granted, the parcel will be burdened by a steep, unsafe, and impractical driveway. Additionally, the prior variance granted to lot 35 (and resulting dwelling) directly impact the views from Applicants' lot and creates a genuinely unique hardship that is not self-imposed.

The subject lot requires the same relief given to Lot 35, or it will be adversely and unfairly impacted.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

Other properties in the FR-3 zone are not impacted in the same way as lot 34. As set forth above, the existing ski trail, steep slope, and existing structure on adjoining lot 35 all uniquely impact the subject lot.

Lot 35 and many other lots on Aspen drive have previously been granted a variance for relief from the FR-3 front yard setback requirements. The Applicant does not dispute that a variance should have been given to lot 35 and the other nearby lots (for many of the reasons set forth herein). However, if not granted a similar variance, Applicants will be deprived of substantial rights that would not otherwise have occurred if the variance was not granted to Lot 35.

Because of the variance granted to lot 35, the existing structure on lot 35 is now 10 feet closer to the road and substantially impacts Applicants' lot views. If the relief requested is granted, the views from Applicants' lot will be restored to a level similar to if lot 35 was not granted a variance. Granting of the requested variance will also allow Applicants to construct a safe and functional driveway.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

The intent of the FR-3 zone is to provide for "permanent home ownership... in mountain locations, in areas associated with major recreational resorts". Consistent with the general plan is to provide safe vehicular access to mountain homes in the zone.

The subject property (Lot 34) is in the Powder Mountain West Subdivision Phase 2, which is in a remote area of Weber County located at approximately 8,300 feet elevation on a steep slope and slightly above and close to the Powder Mountain Ski Resort Timberline Parking Lot. The subject lot receives over 500" of snow per year. The subject lot fronts on 6675 North Street (Aspen Drive), which is currently not plowed in the winter, requiring snowmobile/hike/ski access to the lot from the resort's Timberline parking lot.

There are approximately 53 lots in the Powder Mountain West Subdivision, all of which currently park their vehicles on adjoining lands (not on their lots or within the subdivision) during the winter months. During peak periods, this is already resulting in a parking shortage. At full build-out (only 25 homes have been build to date), this is not sustainable. Powder Mountain

West needs to plan for vehicles to park within its subdivision and lot owners to park within their lots.

While complexities due to the slope, elevation, heavy snow, drifting, existing roadway, and existing structures present challenges to plowing Aspen Drive during winter months, it is possible to plow Aspen Drive. Other roads at a higher elevation, with equal or greater snow drifting, are currently being plowed and providing home access in the winter months at Powder Mountain Resort. Thus, with proper planning, Aspen Drive can also be plowed in the future, such that homes in Powder Mountain West Subdivision can have winter vehicular access, and homeowner vehicles can be parked and garaged within each lot.

The Applicants are proposing to build a home with an HOA-compliant two-car garage. Applicant seeks a front yard setback variance to have a less steep, more safe, and functional driveway. Even with the reduced setback, there will be sufficient space between the road (Aspen Drive) and the dwelling so as not to impede efforts to plow the road in the winter and allow adequate space to park vehicles in the driveway. Without relief from the setback requirements, the lot will have a driveway that is too steep and presents safety issues, and will require additional snow from a longer driveway to be removed and placed elsewhere.

Reducing the front yard setback requirement will not negatively impact the lots to the rear (north) as this will put more distance between the dwelling on the subject lot and the existing dwellings to the rear. It will also lower the overall height of the proposed dwelling by moving the dwelling forward 10 feet. This will minimize the impact of the proposed dwelling upon the views of existing dwellings to the rear. While a reduced setback will make the dwelling on the subject lot closer to the dwellings on the southern side of Aspen drive, their views will generally not be impacted as their primary view is to the south, looking down the canyon. Most existing homes have very few windows on their north side.

The 25-foot setback is not practically suited to the subject lot; what is most suitable a short driveway that is less steep and more functional.

It should be noted that the DRR-1 Zone (Ogden Valley Destination and Recreation Resort Zone), applicable to most of the Powder Mountain area, has a 0-foot front set back requirement.

The General plan promotes development for single-family mountain homes with safe vehicular access and vehicles being parked and garaged on within each lot (and not on property outside the subdivision). Granting the variance will:

- Provide for a highly functional driveway with safe vehicular access to the garage,
- Allow for the future plowing of Aspen Drive
- Minimize the amount of snow to be moved to clear the driveway.
- Undue the adverse impact to subject lot from the variance granted to lot 35.

Allowing for safe vehicular access and parking of vehicles within each lot will ultimately reduce the parking shortage at Powder Mountain, which benefits the general plan and the public interest.

5. The spirit of the land use ordinance is observed and substantial justice done.

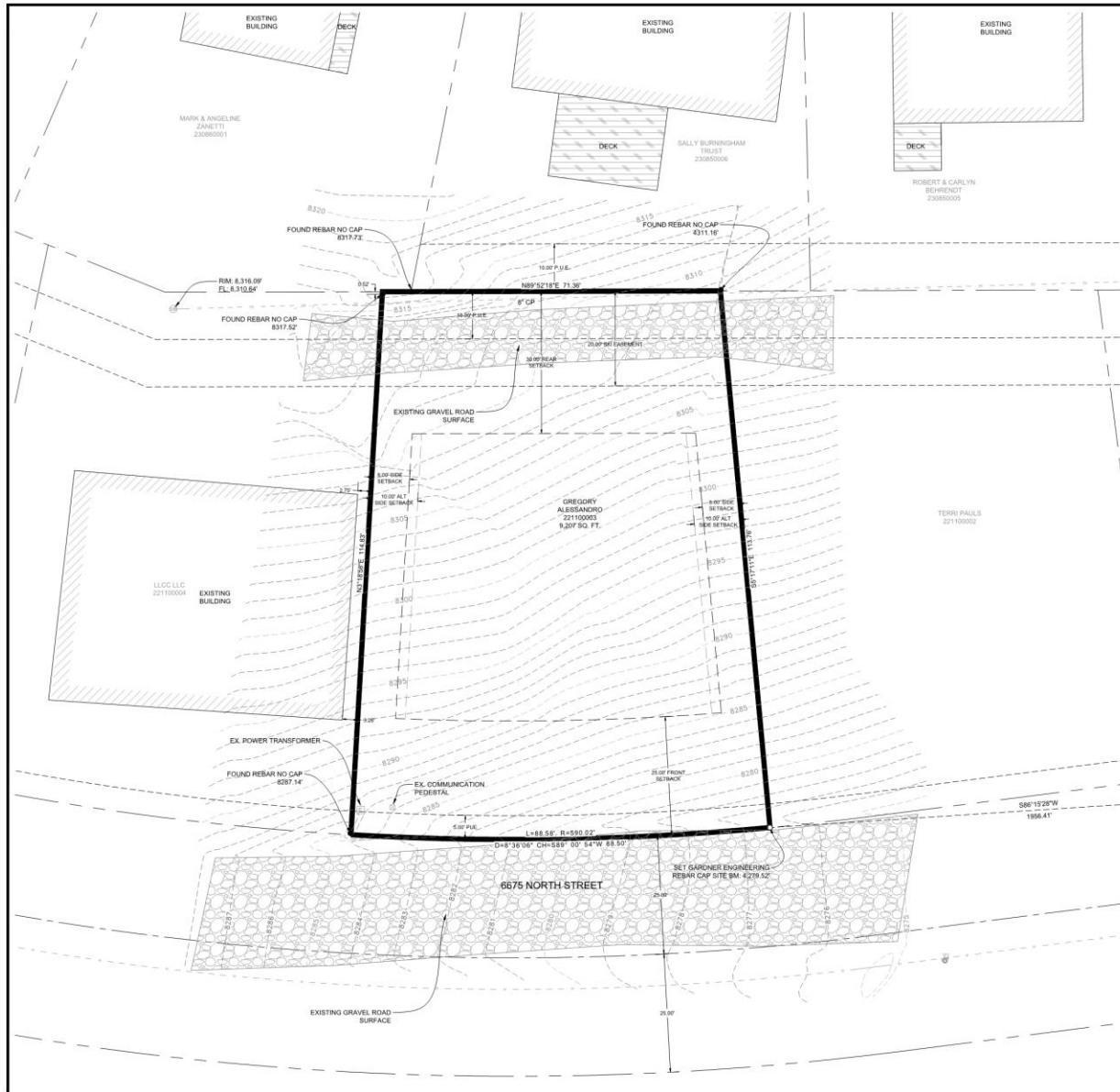
The proposed relief provides for better and safer access and does not negatively impact adjoining properties.

Unique factors such as the lot's steepness, existing ski trail easement, and existing structures warrant granting the relief requested. The proposed variance will further provide just compensation for the negative impact to the subject property resulting from the prior variance granted to lot 35 and the resulting deprivation of views caused by the existing dwelling on lot 35.

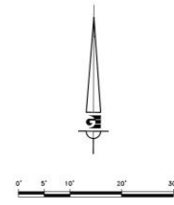
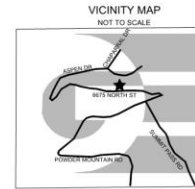
Granting the relief requested will not harm the goals and policies of the Ogden Valley General plan.

Exhibits

1. Survey of subject lot 34. The existing dwelling on lot 34 is also depicted on the survey.
2. Site plan of proposed dwelling to be built by Applicant. Side yard setbacks are approximate and informational only. Dwelling to be located within required side yard setbacks as later determined by site conditions. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
3. View from Summit Pass Road looking up to the subject lot (red x). Existing dwelling on lot 35 immediately left of the red x
- 4A Google Earth image of the subject lot 34 (red box).
- 4B Google Earth image of the subject lot and adjoining areas, including Powder Mountain Timberline Parking Lot.
- 5A View of subject lot (red x) lot from east.
- 5B View of subject lot (red x) lot from east.
- 6A Closeup view of lot 35 dwelling and subject lot (red x) from east.
- 6B Closeup view of lot 35 dwelling and subject lot (red x) from west.
- 7A Closeup of lot 35 driveway.
- 7B Closeup of lot 35 driveway.
- 8A Photo of approximate westerly property line lot 34 (red line) and proximity of lot 35 existing dwelling.
- 8B Close up of lot 34 & lot 35
- 9 Front Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 10 Side Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 11 Side Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 12 Rear Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.



BOUNDARY DESCRIPTION
ALL OF LOT 34, POWDER MOUNTAIN WEST SUBDIVISION-PHASE 2, WEBER COUNTY, UTAH.



LEGEND

- ◆ WEBER COUNTY MONUMENT
- SET GARDNER ENGINEERING REBAR AND CAP
- FOUND REBAR
- LOT LINE
- - - ADJACENT PARCEL
- - - SETBACK LINE
- - - EASEMENT
- - - 5' CONTOURS
- - - 1' CONTOURS
- - - EXISTING SEWER LINE
- - - EXISTING WATER LINE
- ⊙ SEWER MANHOLE
- ⊕ WATER VALVE
- ⊞ COMMUNICATIONS BOX

- NOTES
1. SITE BENCHMARK IS MARKED BY REBAR AND CURB SET BY GARDNER ENGINEERING WITH AN ELEVATION OF 4,279.52'
 2. VERTICAL DATUM: NAVD 88
 3. UTILITIES WERE DETERMINED BY FIELD MEASUREMENTS.
 4. ZONE IS FR-3 WEBER COUNTY; SETBACKS: FRONT 25', SIDE 8' MAXIMUM 18' BOTH SIDES, REAR 30'
 5. SEE NOTES ON PLAT RECORDED AS POWDER MOUNTAIN WEST SUBDIVISION PHASE 2, WEBER COUNTY WITH AN ENTRY NUMBER 1257618.

SCALE: 1" = 10' DATE: 02/02/2021 DRAWN: JWH CHECKED: JWH DESIGNED: JWH DWG. NO.: 2021-0006		REVISIONS DATE DESCRIPTION
PROPERTY SURVEY FOR GREGORY ALESSANDRI 6788 E 6725 N, EDEN UTAH LOCATED IN SECTION 1, TOWNSHIP 7 NORTH, RANGE 1 EAST, S.L.B. AND M.		
GARDNER ENGINEERING CIVIL & LAND PLANNING 5350 SOUTH 1200 WEST, SUITE 100 SALT LAKE CITY, UT 84119 OFFICE: 801-476-7202 FAX: 801-476-0046		
S1 1		EXHIBIT 1

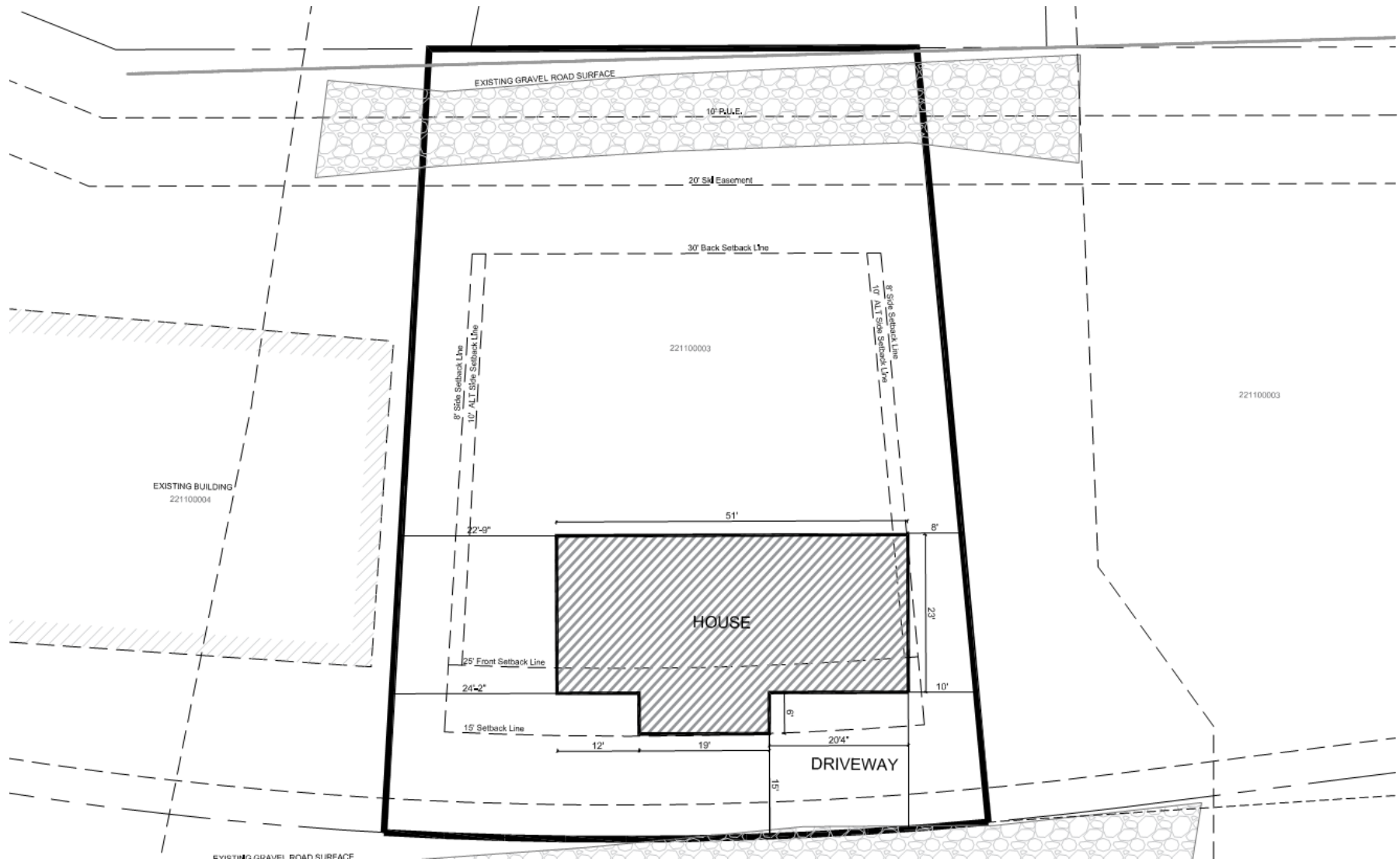




EXHIBIT 3



EXHIBIT 4A



EXHIBIT 4B



EXHIBIT 5A



EXHIBIT 5B



EXHIBIT 6A



EXHIBIT 6B



EXHIBIT 7A



EXHIBIT 7B



EXHIBIT 8A



EXHIBIT 8B



purcell TIMBER
FRAME
HOMES

3d - View B (Alternative patio material)

EXHIBIT 9



purcell TIMBER
FRAME
HOMES

3d - View A (Alternative patio material)

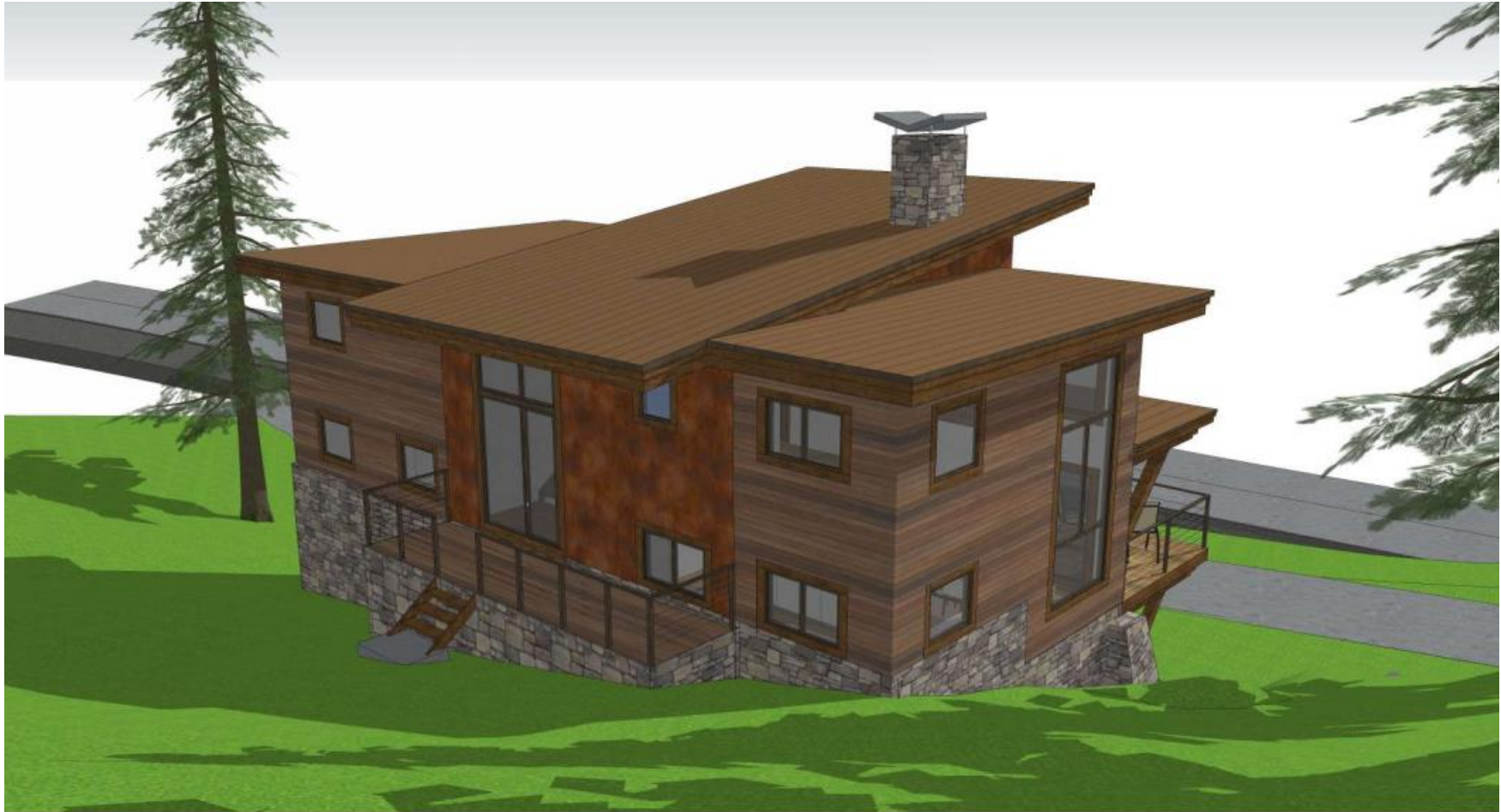
EXHIBIT 10



purcell TIMBER
FRAME
HOMES

3d - View C

EXHIBIT 11



purcell TIMBER
FRAME
HOMES

3d - View F

EXHIBIT 12



WEBER COUNTY BOARD OF ADJUSTMENT RULES OF PROCEDURE AND ETHICAL CONDUCT

A Board of Adjustment shall be governed by the provisions of all applicable Statutes, County Ordinances and these rules.

I

MEMBERS

The Board of Adjustment shall each consist of five voting members, and two alternates, all of whom shall be citizen members appointed by the County Commission in accordance with the provisions of Utah Code Annotated and Weber County Ordinances.

II

OFFICERS AND DUTIES

A. Chair and Vice Chair

The Board of Adjustment shall annually elect a Chair and Vice Chair from its membership. Each officer shall hold office for a one-year period and not longer than two years consecutively. The Chair shall be elected from the voting members of the Board of Adjustment by a majority of the total membership. The Chair, or in his/her absence or incapacity, the Vice Chair, shall preside over all meetings of the Board of Adjustment and shall execute all official documents and letters of the Board of Adjustment.

B. Secretary

The Director of Planning or his/her designated Staff member shall be the Secretary of the Board of Adjustment.

III

MEETINGS

A. Quorum

Three (3) or more members shall constitute a quorum for the transaction of business and the taking of official action; however, in the case of only three members in attendance, a unanimous vote shall be required to approve or deny an application.

B. Time and Place of Meetings

Regular meetings shall be held on the second and fourth Thursdays of each month, as needed, or at the call of the Chair, at a time to be scheduled by Staff in the Weber County Commission Chambers of the

Weber Center, 2380 Washington Blvd., Ogden. The date of the regular meeting may be changed by the majority of the total membership of the Board of Adjustment provided at least one week notice is given each member of the new date of a regular meeting.

C. Special Meetings

A special meeting may be called at any time by the Chair or by a majority vote of the Board at any regular meeting. Notice shall be given to each Board member of the time and purpose of every special meeting of the Board at least twenty four (24) hours prior to such meeting. Such notice shall be delivered to each member of the Board personally, by telephone, or by United States Mail, directed to the Board member to be notified, at the member's residence, and mailed not less than three (3) days prior to the time fixed for such special meeting. It is specifically provided, however, that any member may, in writing, waive prior notice of the time, place, and purpose of such meeting; and such waiver, if made, shall be deemed a waiver of prior notice of the time and purpose thereof.

D. Work Sessions

Work sessions may be held as part of a regular Board meeting or called in the same manner as a special meeting in order for the Board to discuss matters at greater length or to obtain additional background information. The Board shall take no vote during such work session, except to give directions to Staff regarding the presentation of options for future consideration.

E. Length of Meetings

At 8:30 p.m., the Board of Adjustment will finish the item presently being considered. All items remaining to be heard will be forwarded to the next agenda for consideration.

FC. Meetings Open to the Public

All regular or special meetings of the Board of Adjustment shall be open to the public.

GD. Electronic Meeting Option

The Utah Open and Public Meetings Act allows public bodies to hold electronic meetings, subject to certain requirements. The Board of Adjustment hereby adopts the following rules to allow electronic meetings and govern their use. If future changes in state law conflict with these rules, the conflicting provisions of the new state law shall be automatically incorporated into these rules by reference, superseding the conflicting provisions of these rules, until the rules can be amended to conform to the new state law.

Electronic Meeting Requirements. The Board of Adjustment will only hold an electronic meeting in the following circumstances:

1. a matter coming before the Board requires prompt attention;
2. the Secretary of the Board determines that there will not be a quorum present for the next meeting unless the Board allows one or more members to attend electronically;
and
3. the Chair, or the Vice Chair in the absence of the Chair, determines that all items on the proposed agenda are appropriate for discussion and action in an electronic meeting.

Anchor Location. Electronic meetings will originate from an “anchor location,” as required by state law. The anchor location will be the regular meeting location in the Weber Center, 2380 Washington Blvd., Ogden, Utah. As with regular meetings, interested persons and members of the public may attend and monitor the open portions of the meetings at that location.

Notice. In accordance with state law, public notice shall be given as required for a regular meeting, including posting written notice in the Weber Center, on the Utah Public Notice Website, and to at least one newspaper of general circulation within Weber County or a local media correspondent. This public notice shall be given no less than 24 hours before the meeting. Notice of the electronic meeting shall also be given to members of the Board at least 24 hours before the meeting and shall include a description of how the members will be connected to the electronic meeting.

HE. Order of Business

The order of business shall be:

1. Chair opens the meeting and welcomes those in attendance
2. Pledge of Allegiance
3. Roll call. At all meetings before proceeding to business, the roll of the Board members shall be taken and the names of those present and those absent shall be entered on the record.
4. Approval of minutes of prior meetings
5. Director of Planning reads opening meeting statement
6. Chair asks Board members if there are any exparte communications or conflicts of interest to disclose

7. Consent Agenda
8. Petitions, Applications and Public Hearings
 - a. Administrative Items
 - i. Old Business
 - ii. New Business
 - b. Legislative Items
 - i. Old Business
 - ii. New Business
9. Public Comment for Items not on the Agenda
10. Board Member Remarks
11. Planning Director Report
12. Legal Counsel Remarks
13. Chair Adjourns Meeting

- ~~1. Approval of the minutes of previous meeting~~
- ~~2. Petitions for Variance, Special Exceptions or other applicable matters.~~
- ~~3. Other Business~~
- ~~4. Adjournment~~

On a motion supported by a majority of the members present, the Board of Adjustment may change the order of business or consider matters out of order for the convenience of the applicants or other interested persons.

IF. Approval of Minutes from Prior Meetings

Approval of Minutes In-Person. The Chair shall ask the Board if they have had the opportunity to read the minutes and if there are any additions or corrections. Upon hearing from the Board, the Chair shall declare the minutes approved either as presented or amended. If the Board has not had an opportunity to review the minutes, approval shall be postponed to the next meeting.

Approval of Minutes through Email. As an alternative procedure, the Board may approve minutes through email communication, when requested by staff or by any member of the Board. When such a request is made, the Secretary shall send the draft minutes to all Board members. After all members who were present at the meeting have responded, and after a majority of those members have given their approval, the Chair may declare the minutes approved. Otherwise, the minutes shall be placed on the

next meeting agenda for approval. If minutes get approved through email communication, the approval shall be stated on the record at the next meeting.

J. Order of Consideration of Items

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment

The following procedure will normally be observed in a public hearing or other matter before the Board of Adjustment; however, it may be rearranged by the Chair for individual items, if necessary, for the expeditious conduct of business:

1. Chair introduces item;
2. Abstentions, conflicts of interest and challenges are entertained and any declaration of conflicts of interest and ex parte contacts;
3. Staff makes a presentation on the criteria, standards, and recommendations;
4. Applicant or applicant's agent presents evidence for the proposal;
5. Any opponents and/or proponents may comment;
6. Board members may question staff, applicant, or opponents on all the above;
7. Applicant's rebuttal if requested;
8. Closing of the public hearing, if applicable;
9. Concluding comments of Staff or Staff summary and recommendations;
10. Motion is made and seconded; the Board discusses the item and votes. Members are allowed to openly discuss the proposal and may further question any party appearing for or against the proposal as necessary, but generally questions should be asked while the public hearing is open. The Chair outlines possible actions: approval, disapproval, continue, or approval with conditions.

K. Procedure of Motions

Making of Motions. Upon review of the full public record on a request and due deliberation among the members of the Board of Adjustment, any Board member, except for the Chair, may make a motion; however, any Board member may second a motion. The motion shall include not only the direction of the motion, but shall also include the recitation of specific findings of fact supporting such motion. A second shall be required for each motion citing compatible findings. Other members of the Board may support the motion adding compatible findings. A motion shall die in the absence of a second. Discussion of the motion

should not take place until it has been seconded and the Chair has stated the motion and called for discussion.

Withdrawing or Modifying a Motion. When a motion has been made but not yet stated by the Chair, whether or not it has been seconded, it can be withdrawn or modified by the mover if the member simply says, “Chair, I withdraw the motion.” If the mover wishes to modify his/her motion, he/she should specify the modification. Any member may suggest that the mover withdraw or modify his/her motion, but only the mover may do so. If a motion is modified before being stated by the Chair, the second may withdraw his/her second. After the Chair states a motion, it is the property of the Board. It can be withdrawn or modified at any time before final voting by a majority vote to withdraw or modify.

Motions in Order During Debate. When a question is under debate, no motion shall be received except:

1. To fix the time to adjourn;
2. To adjourn;
3. To continue, table, or postpone indefinitely to a specified time;
4. To amend; to substitute;
5. Refer to committee;
6. Previous question (immediately close debate);
7. Limit or extend limits of debate;
8. Take a recess;
9. Call for orders of the day;
10. Suspension of the rules;
11. Appeal rulings by the Chair; or
12. Reconsider an undebatable motion.

Motion must be Germane. No motion or proposition on a subject different from that under consideration is in order and no such motion or proposition shall be admitted under color of amendment.

Motions to Deny. Where a motion to deny a request has been defeated, a Board member shall make another motion to dispose of the issue.

Substitute Motions. A motion to amend by striking out an entire section or paragraph of a main motion and inserting a different section or paragraph is called a motion to substitute. Substitute motions shall supersede the main motion upon receiving the approval of a majority vote.

Amendments. All amendments must relate to the same subject as the original motion, resolution, proposition or ordinance. All amendments to the main motion require a second. If any amendment is offered, the question shall be first upon the amendment. An amendment may be tabled without prejudice to the main motion or question. When an amendment is proposed to any pending measure shall be laid on the table, such action shall not carry with it or prejudice such measure. If any amendment be offered, the question shall be first upon the amendment.

Friendly Amendments. A Board member may make a friendly amendment without a formal motion with unanimous consent of the members present. Typically, such motions are appropriate for clean-up items or an issue discussed but inadvertently neglected by the maker of the motion.

L. Procedure for Reconsiderations

A motion to reconsider a motion must be made in the same meeting as the motion that was voted on. It can only be made by a member who voted on the prevailing side and must be seconded. Any Board member, regardless of vote on the main motion, may second the motion. It is a debatable motion. It can be made to a vote that was either affirmative or negative. This type of motion proposes no specific change in a decision but simply proposes that the original question be reopened. It requires a majority vote and cannot be reconsidered.

M. Procedure for Debates

No member of the Board shall interrupt or question another Board member without obtaining the other Board member's consent. To obtain such consent, the Chair shall be addressed requesting to interrupt or ask a question; e.g., "Chair (name) I would like to ask Board member (name) a question or make a comment." The Board member speaking has the discretion to allow an interruption.

N. Voting

Deciding Votes. An affirmative vote of the three (3) or more of the voting members present at the meeting shall decide all matters under consideration by the Board of Adjustment unless otherwise provided for in these rules. ~~- Voting shall be by voice vote. -~~ The Chair votes on all questions unless the Chair has declared a conflict of interest on a specific issue under consideration before the Board of Adjustment. ~~No voting member of the Board shall be allowed to abstain from voting on any matter under consideration by the Board, unless that member has declared a conflict of interest on the matter under consideration before the Board of Adjustment.~~

Commission Members Required to Vote - Late Voting. No member may abstain from voting unless there is a conflict of interest or the member has not been present during the discussion of any matter and feels he/she has insufficient information on which to act may abstain. A member entering the Chamber after the question is put and before it is decided, may have the question stated, record his/her vote, and be counted. If one or more members lawfully abstain from voting, then an affirmative vote of the majority of voting members present at the meeting shall decide all matters under consideration.

Roll Call on Final Passage. The vote upon the final passage of all business shall be by aye (yeses) and nay (no's) given by members of the Board by voice vote. In recording votes on roll call, the Secretary shall record and report those absent or not voting. The Chair shall announce the result.

Changing Vote Before Decision Announced. Any member may change his/her vote before the decision of the question has been announced by the Chair, unless another member objects to the change, then the voting member must obtain the permission of the Board of Adjustment by general consent or motion.

Changing Vote After Decision Announced. When a vote is taken on roll call on any question, no member shall be permitted to vote or to change his/her vote after the decision is announced by the Chair.

Tie Votes. If a motion regarding any matter before the Board receives an equal number of votes in the affirmative and in the negative, the motion fails. The Board shall continue to make motions until a majority vote is obtained. The option of continuing an item with the possibility that an odd number of members of the Board would be at a subsequent meeting may be considered.

Explaining Vote. After the vote is taken, any member of the Board desiring to explain his/her vote shall be allowed an opportunity to do so.

Not to Vote Unless Present. No member of the Board may vote on any question unless the member is present when the vote is taken and when the result is announced. No member may give his/her proxy to any persons whomsoever.

O. Decisions

Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.

P. Time Limits

The Chair may impose equitable time limits if deemed necessary for the expeditious conduct of the public

hearing.

Q. Conduct of Persons Before the Board of Adjustment

Proceedings shall at all times be orderly and respectful. The Chair may refuse to recognize or exclude from the hearing anyone who:

1. Is disorderly, abusive, or disruptive;
2. Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing;
3. Comments without first receiving recognition from the Chair and stating his/her full name and residence; or
4. Presents irrelevant, immaterial, or repetitious evidence.

Persons making presentations or providing comments to the Board of Adjustment shall address the Board from the podium or microphone and not from the audience; shall address all comments to the Board; and may not directly question or interrogate other persons in the audience.

R. Document of the Board of Adjustment

All materials submitted to the Board of Adjustment regarding a request shall be entered into the public record by the Chair by indicating that the material is "accepted for the record;" provided, however, that a staff report submitted to the Board as part of the agenda shall automatically become part of the public record. All notices, agendas, requests, agency or consultant letters or reports, staff reports, minutes of meetings, and resolutions of record shall constitute the documents of the Board of Adjustment and shall be indexed as public record.

SG. Parliamentary Procedure

Parliamentary procedure in Board of Adjustment meetings shall be governed by Robert's Rules of Order, as revised.

TH. Suspension of Rules

The Board of Adjustment may suspend any of these rules by a majority vote of the entire Board.

U. Record of Meetings

The Secretary of the Board of Adjustment shall keep an accurate record of the proceedings and perform other duties as the Board of Adjustment may determine. The Secretary shall also prepare and post written minutes of meetings in accordance with the time requirements set forth in Utah Open and Public

Meetings Act. Upon completion of draft minutes, the Secretary shall circulate copies to the members of the Board of Adjustment for review. To expedite the approval of minutes, members of the Board of Adjustment are authorized to recommended corrections and approve minutes through email correspondence coordinated by the Chair.

VJ. Preparing the Meeting Agenda

The Planning Director or his designated Staff member shall review items proposed for the Board of Adjustment meeting agenda to determine whether all requirements necessary for Board of Adjustment consideration have been complied with. The Board shall establish reasonable deadlines for submission of applications and other items for Board of Adjustment consideration prior to a Board of Adjustment meeting to allow sufficient time for staff and agency review.

WK. Non Performance or Misconduct - Removal from Office

In the event any member of the Board of Adjustment shall fail to attend more than seventy percent of the Board of Adjustment meetings held during any one year, the member may be removed from office by an affirmative vote of the majority of the County Commission. Any member of the Board of Adjustment may be removed for cause, upon written charges, by an affirmative vote of the majority of the County Commission. The member shall be provided a public hearing, if requested.

IV.

CONSIDERATION OF APPLICATIONS

A. Meeting Procedure

~~Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment. The order of procedure in the meeting of each application shall be as follows:~~

~~1. Presentation by the Planning Staff of the application, including staff recommendation.~~

~~Presentation shall include the reading of pertinent written comments or reports concerning the application.~~

~~2. Additional presentation by applicant or his/her agent.~~

~~3. Public comments in favor of application.~~

~~4. Public comments against application.~~

~~5. Rebuttals by invitation of the Chair.~~

B. Decisions

~~Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.~~

IV

RULES OF ETHICAL CONDUCT FOR A BOARD OF ADJUSTMENT MEMBER

Preamble

1. Ethical practice has special relevance to all people who are charged with responsibilities in public service. Board members, whose decisions and actions have long-range consequences for later generations, must be keenly concerned to adhere to ethical principles.
2. Codes of ethics, as commonly adopted, present a catalog of temptations that are prohibited. It cannot be an exhaustive catalog: human imagination is sufficiently rich to discover new variations of old temptations. The existence of a code simply puts a challenge, to some, to find a gap or loop-hole. Emphasis must be put not on the letter of prohibition but on the spirit of observance. A performance standard of ethical behavior will be superior to a specification standard.

A. Conflict of Interest

A Board of Adjustment member to whom some private benefits may come as the result of a Board of Adjustment action should not be a participant in the action.

1. The private benefit may be direct or indirect, create a material, personal gain or provide a distinct advantage to relations or to friends or to groups and associations which hold some share of a person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to Board of Adjustment action concerning such groups or associations unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
2. A Board member experiencing, in his/her opinion, a conflict of interest, should declare his/her interests publicly, abstain from voting on the action, and may excuse himself/herself from the room during consideration of the action. He/she should not discuss the matter privately or with

any other Board member. The vote of a Board member experiencing a conflict of interest who fails to disqualify himself shall be disallowed.

3. A conflict of interest may exist under these rules although a Board member may not believe he/she has an actual conflict; therefore, a Board member who has any question as to whether a conflict of interest exists under these rules should raise the matter with the other Board members and the County Attorney's representative in order that a determination may be made as to whether a conflict of interest exists.
4. No Board of Adjustment member should engage in any transaction in which he/she has a financial interest, direct or indirect, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.
5. The Board members that the County Commission, in making appointments to the Board of Adjustment, not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in planning matters is necessary only in those specific cases in which a conflict of interest arises.

B. Gifts and Favors

Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility.

The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Small gifts that come in the form of business lunches, calendars or office bric-a-brac are often, not always, acceptable. In cases of doubt, refuse. In cases of marginal doubt, refuse.

C. Treatment of Information

It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Advice should not be furnished to some unless it is available to all.
2. Information on private affairs that is learned in the course of performing planning duties must be treated in confidence. Private affairs become public affairs when an official action -- such as an

application for Variance or Special Exception -- is requested with respect to them. Only then is a disclosure of relevant information proper.

3. Information contained in studies that are in progress should not be divulged except in accordance with established agency policies on the release of its studies.
4. Prearranged private meetings between a Board of Adjustment member and applicants, their agents, or other interested parties are prohibited. Partisan information on any application received by a Board of Adjustment member whether by mail, telephone, or other communication should be made part of the public record.

D. Political Activity

Membership in a political party and contributions to its finances or activities are matters of individual decision that should neither be required of nor prohibited to Board of Adjustment members.

1. The extent of participation in political activities should be governed by professional judgment as well as limited by any applicable civil service law or regulation.
2. The powers of the Board of Adjustment must not be exercised, nor their duties performed, in any way that will create special advantages for a political party. The special position of a Board of Adjustment member should not be used to obtain contribution or support for a political party and should not be used to obtain partisan favors.
3. Partisan debate of a community's planning program and the consideration of planning in a party's platform is proper. Planning Officials should, however, give political parties equal access to information.

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